

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1002 OF 2006

1. Paramanand Nayak
2. Smt. Urmila Paramanand Nayak Applicants.

V/s

State of Maharashtra

....Respondent.

Mr. P.G. Sabnis for the applicants.

Ms. S.U. Gajre, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 28th March, 2006

P.C.:

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. The grievance of the applicants is that the learned Magistrate by the impugned order has refused to refund the cash bail which was furnished by them. Brief facts are that the applicants were granted anticipatory bail for an amount of Rs 40,000/- with one or two sureties. However, since initially it was not possible for the applicants to furnish sureties, by order dated 16/12/2005, the Sessions Court was pleased to allow them to furnish cash bail in lieu of surety.

3. Accordingly, the applicants initially had furnished cash surety of Rs 40,000/- and thereafter

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had furnished a personal bond of Rs. 40,000/- and
also furnished surety for the said amount.

4. The learned APP on instructions states that the applicants have furnished surety for an amount of Rs 40,000/- to the learned Magistrate before whom the application was made for return of amount of Rs 40,000/-. However, the Magistrate directed that the applicants should remain present personally. However, the applicants' counsel expressed inability of the applicants to remain present personally since they had gone abroad and submitted that specific authority had been given to the advocate to get the cheque of refund. In spite of this, the Magistrate did not allow the application for refund of the cash bail. In my view, since a specific order was passed by the Sessions Court on 19th January 2006, there was no reason why the learned Magistrate should have withheld the cheque being handed over to the advocate of the applicants. The Magistrate is directed to hand over the cheque for an amount of Rs 40,000/- which was the cash surety given by the applicants.

5. Application is disposed of in the above terms.

V.M. KANADE, J.